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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,072	11/14/2003	Kilian Heitz	FR4-002	2625
959 7590 12/16/2008 LAHIVE & COCKFIELD, LLP FLOOR 30, SUITE 3000 ONE POST OFFICE SQUARE BOSTON, MA 02109				
EXAMINER				
LLOYD, EMILY M				
ART UNIT		PAPER NUMBER		
3736				
MAIL DATE		DELIVERY MODE		
12/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/714,072

Examiner

EMILY M. LLOYD

Applicant(s)

HEITZ, KILIAN

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 October 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
- ☒ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☒ C. Other See Continuation Sheet.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

- Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
- Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Brian Szmaj/
Examiner, Art Unit 3736

Continuation of 1(c) Other: It is unclear which substitute specification is being modified by the 10 October 2008 amendment, as the page citations do not seem to correspond to the 17 May 2004 substitute specification which was the basis of the specification objections in the 28 December 2007 Non-Final Rejection, or the substitute specification submitted 30 June 2008, which has not been entered by the Examiner due to the noncompliance issues cited 12 September 2008. Further, additional noncompliant items exist in the 30 June 2008 substitute specification (for example, the paragraph ending on page 7 ends with a comma when it previously ended with a period, the first full paragraph on page 10 has a dash on its first line that wasn't in the 17 May 2004 substitute specification, a character that appeared to be a sigma was replaced with "o" or "a" on pages 13 and 14, and the comma in "pivotable, adjustable eyepiece" on the last page has been deleted). Further, the 10 October 2008 specification amendments request that a single paragraph of a previous specification be modified to have the contents of two paragraphs, which would result in duplicate text, and the comma in "pivotable, adjustable eyepiece" is still missing. Applicant is requested to thoroughly review the 17 May 2004 substitute specification and the 28 December 2007 Non-Final Rejection and to provide amendments to the 17 May 2004 substitute specification as appropriate.